File No. 116

1936.

Collection No.

1

Mysore Residency
Bangalore.

Pros. / Serial Nos. 1–4

Subject.

Audit of the Accounts of the Municipal Commission, C+M Station, Bangalore

Previous References.

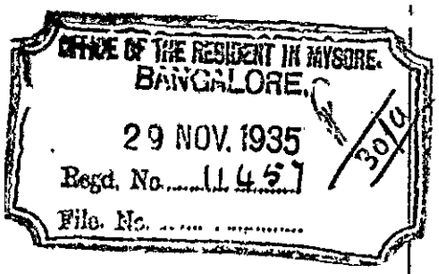
F. 424-32 (K)
F. 944-34 (W)

Later References.

S. 97.—(Blue).
MFP—393 S&P—(M-625)—28-7-36—100,000.

NOTES AND PRECIS.

D.No 11457. S.N.(1).



Rao Sahib Kuppuswami Naidu brought this letter and its enclosures to me personally this morning. His letter should be treated as a demi-official letter and brought on record on the file. His official reply to our endorsement of 29th October is being sent in formally in the ordinary way. We now have a very good opportunity to take up the question of audit fee again; but we should take it up in the first instance on the lines of his official letter. The amendment of the Supplementary Rules has changed the whole position; and while under the old rules an officer might have been required to refund to Government the whole of any fee, under the rules as now amended he must be permitted to retain at least ⅔ of the fee. If the Government of India are not inclined to accept a recommendation made on the lines of Treasury Officer's official letter, we shall still have the material in Rao Sahib Kuppuswami Naidu's private (demi-official) letter to fall back upon.

29.11.35

2 Old Supplementary Rules 9 to 16 have been replaced by new Supplementary Rules 9 and 10.

3 Under new Supplementary Rule 9, a Government servant may be permitted by a competent authority to undertake work for a public body and to accept a fee therefor, provided the work can be undertaken without detriment to his official duties and responsibilities.

4 Under new Supplementary Rule 10, one-third of any fee so received by a Government servant shall be credited to general revenues, unless the Governor General in Council by special order otherwise directs.

The

5 The Government of India are now considering in wh cases new Supplementary Rule 10 should be relaxed and th officer allowed to retain the entire fee instead of only two-thirds. They have accordingly asked for details of fees drawn by officers under the Resident's control.

page 10-11 P.U.C

6 It will thus be seen that the reference from the Government of India is confined to cases where fees are now drawn by Government servants under S.R.9.

7 Rao Sahib Kuppuswami Naidu has not been permitted to draw any fee for the audit of the accounts of the Municipal Commission; and the question of retention by him of a portion or the whole of the fee does not therefore arise.

8 As the apportionment of the Municipal audit fee between the Government and the Auditor does not come within the purview of the present reference, it has to be taken up independently if it is decided to re-open the question.

9 The facts of the case may briefly be stated. In 1931, on the eve of the abolition of the Pay and Accounts Office, Bangalore, the Hon'ble the Resident recommended to the Government of India the appointment of Rao Sahib Kuppuswami Naidu who was then in charge of the Pay and Accounts Office here, as Treasury and Income-tax Officer and Financial Adviser to the Resident, on a pay of Rs.500-50-850. In the letter to the Government of India it was also stated that the duties of Municipal audit would form part of the functions of the Treasury Officer and Financial Adviser and that the audit fee recovered from the Municipal Commission would be credited to the Assigned Tract revenues from which source the pay of the new post was proposed to be met. The Government of India sanctioned the proposal; and the Municipal Commission

S.11.5 F 631-31 (File subd in question; but please see rough draft at K)

+ Page 5 of (K)

Commission was asked to credit the audit fee to the revenue of the Assigned Tract. Subsequently however, on Rao Sahib Kuppuswami Naidu's own advice rendered in his capacity as Financial Adviser to the Resident, the order to credit the fees to M.A.T. revenues was cancelled by the Resident; and the fee of Rs.2,400/- received from the Commission for the audit of the accounts for 1931-32 was ordered to be paid to him under old Supplementary Rules 9 and 12. The Govem ment of India who were informed of the Resident's intention to pay the amount to the Auditor instead of crediting it to M.A.T. revenues as originally proposed, declined to sanction the proposal on the ground that the Municipal audit formed part of the functions of the Treasury Officer, that it was one of the original conditions on which the revised scale of pay for the Treasury Officer was fixed and that they were not prepared to modify the original arrangement unless the Resident was also prepared to suggest a suitable reduction in the scale of pay of the post. The Collector suggested that the Government of India might be asked to reconsider their orders; but Sir Richard Burke declined to do so. He was at first not inclined even to ask the Government of India that recovery of the amount already paid to Rao Sahib Kuppuswami Naidu might be waived; but finally he agreed to do so and requested them to waive recovery of the amount as a special case on the ground that the payment was authorised under a misunderstanding on the part of this Residency. In the circumstances explained in Sir Richard Burke's letter, the Government of India were pleased to waive recovery of the amount. The question was revived by the Collector in 1934; but Col.Plowden was of opinion that in the circumstances of the case it would be useless to re-open the question with the Government of India and suggest that either the Treasury Officer or his assistants should be permitted to retain any portion of the Municipal audit fees. He however recommended

to

to the Government of India that the Treasury and Income-tax Officer might be relieved of the Municipal audit work without any reduction in his pay and that it might be entrusted to some other agency. But the Government of India did not accept the recommendation. In their reply dated 23rd November 1934, they stated as follows:-

S.N.4 c p.87 (B) F-944-34

"In 1931 when the post of the Treasury and Income-tax Officer and Financial Adviser, Mysore Residency, was created the officer appointed to it was granted a special rate of pay of Rs.500-50-850, which was to be personal to him, in view of the fact that he had to do the audit of the accounts of the Municipal Commission, Bangalore, in addition to his other duties. On the facts before them the Government of India are not at all convinced that the pay of the post should not be reduced correspondingly if the audit work is to be taken away as proposed by you, and they do not see sufficient reason for a reconsideration of the orders already passed in the matter".

10

In view of the facts set forth in the above review of the case, it may not perhaps be advisable to make a further representation to the Government of India on the subject unless some fresh grounds can be urged in support of the claim.

* pages 1-3 & 2-14 F.N.C 11

It is argued that the amendment of the Supplementary Rules has changed the position and that on this ground the Government of India can be asked to reconsider their decision. The scope and effect of the amendment may therefore be examined.

M N

12

Both under the old S.Rs.9 to 13 and the new S.Rs.9 and 10, a Government servant should be permitted by a competent authority to undertake work and to accept the fee therefor. Under the old rules, the Government servant could retain the whole fee, except in respect of cases

covered

covered by S.R.13, i.e., where the work for which fee is received was done "during time which would otherwise be spent in the performance of official duties". In the latter case, the fee should ordinarily be credited to general revenues, but a competent authority may, for special reasons which should be recorded, direct that the whole or any part of it may be paid to the Government servant. Under the revised rules, the Government servant can retain only two-thirds of the fees: one-third should be credited to Government unless specially exempted. The object of the amendment appears to be to enable the Government to appropriate for themselves a portion of the fees which before the amendment was paid entirely to the Government servant concerned, and not to authorise payment of fees to Government servants which was not hitherto allowed. In other words, the intention of the amendment is to restrict the scope of the Supplementary Rules and not to enlarge it by bringing in cases in which no fees are payable at all.

13

There is however one point to be considered. Under old S.R.13, the general rule was that in the case of work done "during time which would otherwise be spent in the performance of official duties", the fee must be credited to general revenues. But under the revised rules no distinction is made between work done during office hours and that done out of office hours. In either case, provided the work has been undertaken with proper sanction, the Government servant can retain two-thirds of the fee or even the entire fee with special sanction. While therefore under old S.R.13, an officer might have been required to refund to Government the whole of any fee*, under the new rules he must be permitted to retain at least two-thirds of the fee. The Government of India have also decided that where Government have some interest in

*received for work done during office hours.

page 10
F.W.P.

in any particular work for which a fee is granted, being performed by a Government servant, S.R.10 (new) should be relaxed and the officer allowed to keep the entire fee. This would have been a very good argument in favour of Rao Sahib Kuppiswami Naidu being permitted to accept and retain the entire fee received for Municipal audit, if the decision to credit the Municipal audit fee to Government (M.A.T. revenues) had been arrived at under old S.R.13. His case however was decided on entirely other considerations and without any reference to S.R.13. In fact, Supplementary Rules 9 to 13 had no application to his case at all as the work for which the fee was paid was ordered to be done by him as part of his official duties. Please see in this connection the Government of India letter dated the 29th December 1932. In any event, S.R.13 would not have applied, because the work was done as part of his official duties and out of office hours.

x S.N.17 (A)
F.424-32

(x) Para 2(1)
S.N.2 (A)
F 424-32/14

If the above view is accepted, the amendment of the Supplementary Rules cannot be urged as a ground for re-opening the question of the Municipal audit fee.

Submitted for orders.

14/12/35.

(From para 1)

Safey

T. N. T.
14-12-35

15

We are not on easy ground; and the case has been prejudiced from the beginning in the eyes of the Government of India by our initial suggestion that the work of municipal audit could easily form a part of the regular functions and duties of the combined post. But I do feel that it is incumbent on us to do anything that is now in our power to obtain slightly more generous treatment for the Treasury and Income-tax Officer who has a very heavy and responsible load to shoulder; and I think that we might try the effect of a demi-official letter to the Government of India. A draft is submitted for consideration.

3.1.36

Rec'd
16.

I fully sympathise with the T.O. & I.T. Officer, and I am convinced that in urging his case a good claim, but I regret that I cannot see my way to approach Govt again on the subject. They have resisted so strongly all the endeavours made in the past that they are most unlikely to reconsider the decision now, & the case could only be prejudiced by pressing the old arguments of the S.N.I. The Office note above, which is a very lucid one, makes it clear that the new rules afford no real ground for re-opening this matter. I have carefully read thro' the whole correspondence, and I am afraid that I am not prepared to address Govt again, even as suggested by Reg

4/1/36

Please issue my dup. letter to Rao
Sahib Kuppuswamy Naidu.

13-1-26.

S.N-2. Issue.

P.U.C.

D.No 722. S.N. (3)

18

Rao Sahib Kuppuswami Naidu brought this to me personally this morning. He fully understands and appreciates the reasons which made it impossible for Resident to address the Government of India again on his own motion; but he has now put forward his case in the form of a personal appeal from himself to the Government of India and hopes that the Resident will see no objection to forwarding it in this form.

Thoe

20.1.36.

Resd.

19

I think we can forward, with a favourable recommendation. Sec might examine it with this in view.

20.

Para 5 is the strong point. If an outside auditor were appointed, there would be no question of his retaining the whole fee. The Local auditor's appt is an additional advantage to Trav., and makes the case for his retaining the fee all the stronger

Thoe
21/1.

20/1/36

21

There can be no doubt that the work of Municipal audit forms part of the regular official duties of Rao Sahib Kuppuswami Naidu. The real question at issue, however, is whether the fact that the Municipal audit forms part of his official duties was taken into consideration in fixing a special scale of pay for him, viz., Rs.500-50-850. The Government of India have persistently held that it was taken into account; but Rao Sahib Kuppuswami Naidu's contention is that it was not. If the latter view is accepted by the Government of India, they cannot in equity refuse to give him at least two-thirds of the audit fee under S.R.10. If, on the other hand, they adhere to the view already taken by them, he will have no claim to any portion of the audit fee, unless he is prepared to agree to a reduction in pay.

A draft to Govt. of India is submitted for consideration.

(From para. 18)

8-2-36

T.N.T.
8-2-36.

22

Read: may prefer to say a little more than has been suggested in the draft put up by Office; and there placed on the file a longer alternative form for para 22 of the draft.

14.2.36

23

Remarks. The draft with alteration para 2, as revised, will do very well.

24

I do not think, however that R.S. Kuppuswami Naidu will advance his case by support for Cl. Baker's proposals were made — a thing (para 6 of D.O.) with the implications that Congress ill. considered — I would advise a reasoned rejection of this passage in D.O. on its own merits.

L.P.
18/2/36

R.S. Kuppuswami Naidu 1
Provincial Council
Whether Hindu is
Civil or Criminal
Question for 6½ hrs
Reply

(Files)
18/2

(T)

25

Rao Sahib Kuppuswami Naidu has revised para 6 of his representation. The draft may now issue.

Kulkarni
22/2/36.

T.N.T.
22-2-36

Any news from camp?

Clow
23.2.36

L.P.
25/2/36

S.N.(4) Issue.

* Typed from draft

Issued.
25/2/36
Recd.

Clow
23/2

Record.
(Papers now filed)
T.N.T.
4-2-37

March
1/7/36
1/8/36 ✓
1/9/36.

CORRESPONDENCE.

R-O.

D.No. 11457
29.11.35

Dear Major Edwards,

The Government of India have recently decided, under the provisions of the new Supplementary Rule 10 (correction No.302(S.R.), dated 13th October 1934), that where Government have some interest in any particular work for which a fee is granted being performed by a Government servant, the officer concerned should be allowed to keep the entire fee instead of only two-thirds of it, and have requested the Resident to send details of such fees the whole amount of which he considers should be retained by the officer for the reason given above. Please see Government of India, Foreign and Political Department Memorandum No. 2981-E/35, dated 18th September 1935 (copy enclosed).

I have sent an official reply (copy enclosed) to your endorsement on the Government of India memorandum furnishing particulars of the fee paid by the Municipal Commission for my audit of their accounts. But I venture to address this personal representation to you as the new Supplementary Rules 9 and 10 and the present reference of the Government of India give the necessary opening to ask them to reconsider their decision regarding my retention of the audit fee.

2. Revised Supplementary Rules 9 and 10, issued in October 1934, replace the old Supplementary Rules 9 and 16 and have changed the scope and effect of the rules relating to 'Honoraria'. Under the new Supplementary Rule 9, "no Government servant may undertake work for an Indian State or a private or public body or a private person, or accept a fee therefor, without the sanction of the competent authority who, unless the Government servant is on leave, shall certify that the work can be undertaken without detriment to his official duties or

responsibilities". The old Supplementary Rule 13 under which the fee for such work, if done during time which would otherwise be devoted to official duties, should ordinarily be credited to general revenues, has been cancelled. The officer who undertakes such work with proper sanction must be allowed to retain two-thirds of the fee, and can, under the special orders of the Governor General in Council, even keep the remaining third - Vide new Supplementary Rule 10. In other words, Government do not expect a compensation for allowing their officers to do outside work without detriment to their official duties. I submit that my case is covered by the new Supplementary Rules 9 and 10, and I should ordinarily be allowed to retain at least two-thirds of the audit fee. And I request that you may be pleased to recommend to the Government of India that mine is a fit case in which the entire fee may be allowed to be retained by the officer.

S.N.4 (R) F944-34

3. In their letter No.F.37(2)-E/34, dated 23rd November 1934, Government of India turned down Colonel Plowden's proposal to transfer Municipal audit from me to another agency and expressed themselves as follows: "..... when the post of Treasury and Income-tax Officer and Financial Adviser, Mysore Residency was created, the officer appointed to it was granted a special rate of pay Rs.500-50-850, which was to be personal to him, in view of the fact that he had to do the audit of the accounts of the Municipal Commission, Bangalore, in addition to his other duties. On the facts before them, the Government of India are not at all convinced that the pay of the post should not be reduced correspondingly if the audit work is to be taken away as proposed by you .....".

The new position created by the revised Supplementary Rules 9 and 10 is that at least two-thirds of the audit

fee must be allowed to be retained by me, my pay being reduced, if necessary, unless the Government of India can be convinced that Rs.500-50-850 was not a special rate of pay granted to me on account of my having to do Municipal audit in addition to other duties.

It is therefore necessary to examine the genesis of the scale of pay proposed by Sir Richard Burke and sanctioned by the Government of India.

4. On the eve of the abolition of the Pay and Accounts Office, Bangalore, the Government of India sent the -- following orders to the Resident:

" ..... it will be necessary for the Hon'ble the Resident in Mysore to take over and arrange for the -- administration of the Bangalore Treasury as before. It is requested that steps may kindly be taken accordingly". (Government of India Memorandum No.D.2525-A-31, dated 11th September 1931). In his letter No.78.T/631-1931, dated 9th October 1931, Sir Richard Burke explained the steps he proposed to take and in the following portions of that letter discussed the question of the scale of pay.

"Para 2. .....

If the services of a Deputy Collector are obtained from Madras as before for appointment as Officer in - charge of the Hon'ble the Resident's Treasury, he will have to be entrusted with the Income-tax work in addition to Treasury work .....

'Para 3. I consider that a better arrangement would be to create a permanent post on 500-50-850 (the pay a Senior Deputy Collector) and obtain the services of an Assistant Accounts Officer from the Government of India, Finance Department, for appointment as Officer in charge the Hon'ble the Resident's Treasury, Income-tax Officer

Civil and Military Station, Bangalore, and Financial Adviser to the Hon'ble the Resident. In addition to the above he will be appointed as Auditor of the Municipal Commission, Civil and Military Station, Bangalore, under Section 175(o) of the Bangalore Municipal Law.

"Para 5. In any case, a Deputy Collector will have to work as Treasury Officer. His pay would be actually a little better than that now paid to the Pay and Accounts Officer - (300-40-500-50-850 against 500-35-850), and to have an officer of the Audit Department who can work both as Treasury Officer and Financial Assistant would be in practice an economy."

The immediate problem before the Resident was to arrange for the administration of the Treasury. According to the arrangement in vouge before October 1924, that is, before the Pay and Accounts Office was created in Bangalore, a Deputy Collector from Madras on 300-40-500-50-850 should have been brought, to do the Treasury and Income-tax work. Such an officer would, however, not be useful as Financial Adviser. The Resident considered that the need for financial advice was great. He said, in para 4 of the same letter from which I have already quoted,

"I might emphasise the need for financial advice. This administration has had the services of a Pay and Accounts Officer for the past 7 years and his sudden removal would be a serious handicap. .....

Now even more than before, it is necessary to have a Financial Adviser attached to the Administration, in view of the need for seeking avenues of retrenchment, the administration of grants with the utmost economy and the impending constitutional changes. The revision of the settlement with Mysore will have to be taken up next

year and the expenditure on Civil Works, which are executed by the Municipal Commission under a contract with the Government of India, will always need scrutiny. The Municipal accounts, too, need a local auditor, if the audit is to be of practical benefit to the Commission".

It will be seen that the pay of the post was, in any case, to be that of a Deputy Collector, (viz., 300-40-500Rs50-850), but even if he could do Income-tax work in addition to Treasury duties, he would not be useful as Financial Adviser. And the Resident therefore suggested that it was a better and more economical arrangement to appoint an Assistant Accounts Officer who could work as Treasury Officer and Income-tax Officer as well as -- Financial Adviser on the pay of a Senior Deputy Collector i.e., Rs.500-50-850. It is necessary to note that the post proposed to be created (and the post eventually sanctioned) was that of Treasury Officer, Income-tax Officer and Financial Adviser. Municipal Audit came as an incidental and not a necessary consideration. It was in the interest of the Municipal Commission that a local auditor as against an absentee auditor like the Accountant General, Madras, was considered more satisfactory. Please notice the wording of the Resident's letter. He says in para 3 of his letter: "In addition to the above, he will be appointed as Auditor of the Municipal Commission under Section 175(o) of the Bangalore Municipal Law"; and again in para 4. "The Municipal accounts, too, need a local auditor, if the audit is to be of practical benefit to the Commission". Obviously, therefore, he mentioned the need for a local audit officer for the Municipal Commission as an additional ~~arrangement~~ argument for appointing an Assistant Accounts Officer to the new post rather than a Deputy Collector.

It must be clear from the above that the proposed pay of Rs.500-50-850 was not fixed on account of Municipal audit but that it was suggested with reference to the pay a senior Deputy Collector. The Resident proposed, it is true, to credit the Municipal audit fee to the Mysore Assigned Tract revenues, evidently under the provisions of the old Supplementary Rule 13 but that by itself, I submit, does not justify the inference that the pay was proposed at a special rate to allow for Municipal audit. Sir Richard's letter, as explained in the preceding paragraphs, gives hardly room for such an assumption.

5. This will be clearer still if we look at the further correspondence between the Resident and Government of India on the question of the scale of pay of the new post.

Government of India, after having sanctioned in -- November 1931 the new post on the proposed pay, raised in February 1932 the question of the "scale of pay -- sanctioned for the post of Treasury and Income-tax Officer and Financial Adviser, Mysore Residency, having been -- pitched too high", but finally confirmed the original orders after Sir Richard Burke, the author of the original proposal, explained the case fully in his letter No.130-T/631-1251, dated 8th March 1932, from which I quote the relevant portions below:

"Para 2. Prior to the abolition of the Pay and Accounts Office, Bangalore, the Resident's Treasury was in charge of the Pay and Accounts Officer, who was of the status of an Assistant Accounts Officer on Rs.500-35-850. He was also ex-officio Financial Adviser to the Resident. A sum of Rs.300/- per mensem out of his pay was charged to the Mysore Assigned Tract revenues for duties connected with the Treasury, the balance being paid from Central Revenues.

There was in addition a full time Income-tax Officer of the Madras Service on 300-40-500, in charge of the Income-tax work. The Administration was thus paying Rs.600-40-800 for the Treasury and Income-tax work".

"Para 3. "With the abolition of the Pay and Accounts Office, the immediate problem before me was to arrange for the treasury work. Before the introduction of the Pay and Accounts Office in Bangalore in October 1924, the Treasury was in charge of a Deputy Collector of the Madras cadre on a scale of pay Rs.300-40-500-850, who did also Income-tax work. But on the recommendation of Mr. Boag, an officer of Income-tax Department trained in up to date methods of Income-tax administration, was put in separate charge of Income-tax work. He has been working since the 1st April 1928. A Junior Deputy Collector of Madras should, in the usual course, have been recruited as Treasury Officer and paid at least Rs.300-40-500. The Administration should therefore have spent at least Rs.600-80-1000 on two officers for the Treasury and Income-tax work, as against Rs.600-40-800 incurred until the 1st -- November, 1931, the date of abolition of the Pay and Accounts Office. And no provision would have been made for financial advice."

The insistence on financial advice and the need therefore of recruiting an Assistant Accounts Officer to the new post, as well as the reference to Treasury and Income-tax and the absence of any mention of Municipal audit, in discussing afresh the proposed scale of pay may kindly be noted. It is impossible to read from this that the scale of pay proposed and sanctioned was intended to make any allowance for Municipal Audit. The only possible interpretation is, therefore, not that the pay made an allowance for Municipal audit, but, that if

Municipal Audit was also entrusted to the Assistant Accounts Officer holding the new post, as it could be, he being an officer of the audit department, the extra cost of the post would be reduced by crediting the audit fee to Assigned Tract revenues.

In Colonel Plowden's letter No.F.944-34/R.O.II, dated 29th September 1934, enough has been said to show that the work of the Treasury Officer and Income-tax Officer and Financial Adviser is heavy and responsible and that even the Income-tax work alone is a full time job. The improvement in Income-tax revenue, which is the second chief source of revenue in the station, since the new post was created, has been touched upon. It will therefore be conceded that the audit of the Municipal accounts has not been detrimental to ~~any~~ very official duties. It only remained to correct the erroneous impression of the Government of India that the scale of pay of the new post was ~~not~~ fixed at a special rate in view of the fact that Municipal audit had to be done in addition to other duties. I have devoted the previous paragraphs of this letter to discuss this point. Before I took charge, the Administration was actually paying Rs.500/- to the Income-tax Officer and Rs.300/- was adjusted towards the pay of the Treasury Officer. That is, for Treasury and Income-tax work the Administration paid Rs.800/- per mensem. Even with a Junior Deputy Collector as Treasury Officer and a Junior Income-tax Officer, the Administration should have paid, as pointed out by Sir Richard Burke, Rs.600-80-1000 without making any provision for financial advice. Income-tax revenue has risen by more than a lakh since I took charge. On these general considerations also, it will be found that I will not cost the Administration too much even if the entire fee of Rs.2,400/- per annum is retained by me.

para 10-11 infra

9

I therefore request that, in reply to their memorandum of September 1935, my case may be put afresh to the Government of India under the new Supplementary Rules 9 and 10 and retention by me of the entire fee -- recommended.

I apologise for taking so much of your valuable time and for the length of this letter which is principally due to the liberal quotations I have had to make to put the case fully and clearly.

S Krishnaswami

28.11.1935

Memorandum from the Government of India, Foreign and Political Department No.2981-E/35, dated the 18th September 1935.

-:0:-

Scope of the revised Supplementary Rule 10 and the question of granting exemptions to Political and other officers under the Foreign and Political Department as a special case.

---:0:---

The Government of India have had under consideration the exceptions which may be made to the revised supplementary Rule 10 by which, unless the Governor General in Council by special order otherwise directs, one third of any fee in excess of Rs.50/-, or if a recurring fee, of Rs.50/- a year paid to a Government servant shall be credited to general revenues. It has been decided that this rule is not applicable to fees drawn by medical officers in Civil employ for services other than professional attendance, vide Finance Department Resolution No.F.1.III.Ex. II/35, dated the 31st July 1935. The acceptance of such fees is regulated by the orders issued by the Government of India in the Education, Health and Lands Department letter No.F.18-10/32-H dated the 28th September 1934, and the possibility of the extension of those orders to medical officers not in the Indian Medical Service is under consideration. The Government of India have considered what exceptions should be made to this rule in respect of the fees drawn by officers other than medical officers and have decided that where Government have some interest in any particular work, for which a fee is granted, being performed by a Government servant, Supplementary Rule 10 should be relaxed and the officer should be allowed to keep the entire fee. You are accordingly requested to send to the Government of India details

details of all fees drawn by the officers with which you are concerned under the administrative control of the Foreign and Political Department, the whole amount of which you consider should be retained by the officer for the reason given above. You are requested to send full details of the work for which the fee is granted to enable the Government of India to decide whether an exception can justifiably be made. One class of fee which it is considered should be retained without reduction by the officer concerned is a fee drawn by a Political Officer for the supervision of a minority administration in a State.

(True Copy)

S.K.

16-11-31

THE HON'BLE THE RESIDENT'S TREASURY,
BANGALORE.
Dated the 28th November 1935.

No. Tr 1/31.4-3 Enc.

FROM

M.R.Ry. Rao Sahib, S. Kuppuswami Naidu, Garu, B.A.,
OFFICER IN CHARGE OF THE HON'BLE THE RESIDENT'S TREASURY,
BANGALORE.

To

The Secretary to the Hon'ble
the Resident in Mysore,
Bangalore.

SIR,

1) With reference to your endorsement No.F.1220-35/R.).I, dated 29th October 1935, on Government of India, Foreign and Political Department Memorandum No.D.2981/E.35, dated 18th September 1935, I have the honour to state that the Treasury and Income tax Officer and Financial Adviser audits the accounts of the Municipal Commission of this Station for which a fee of Rs.2,400/- is paid for each year's audit.

2) Under the orders of the Government of India, vide, correspondence ending with the letter from the Assistant Secretary to the Government of India in the Foreign and Political Department, No.37(2)-E/34, dated 23rd November 1934, the fee is at present credited to Mysore Assigned Tract revenues, Government of India holding that the pay of the post of Treasury and Income-tax Officer and Financial Adviser has been fixed at a special rate in view of the fact that the officer had to do the audit of the accounts of the Municipal Commission in addition to his other duties. The question has however to be viewed from a different stand point in consequent of the new Supplementary Rules 9 and 10 issued with correction No.302, S.R., dated 13th October 1934, to replace the old Supplementary Rules 9 to 16. Under the old Supplementary Rule

13, since cancelled, the fee received by an officer of Government doing work such as Municipal audit had ordinarily to be credited to general revenues if he performed the work during the time which he would otherwise have devoted to his official duties, but under the new Supplementary Rule 10, the officer ~~the officer~~ should be allowed to retain 2/3rds of the fee and with the special orders of the Governor General in Council, may even keep the remaining third. It is under this latter condition of the new Supplementary Rule 10 that Government of India are now asking for reports of cases deserving of this concession.

+ Para 10 (2) (b) 3) Government of India point out that the ground for making an exception to the general rule in Supplementary Rule 10 and permitting an officer to retain the full instead of only 2/3rds of a fee is that Government should have some interest in the work concerned being performed by a Government Officer. In the case of Municipal audit, this condition is satisfied because Government is interested in the proper administration of local and Municipal funds and especially so in the Civil and Military Station, as the Municipal Commission is in receipt of large amounts of grants from Government. I therefore request that a recommendation may be made to the Government of India to bring the Municipal audit fee as one of the exceptions to be made under Supplementary Rule 10.

As regards pay proper, reference may be invited to Colonel Plowden's letter No.F.941-34/R.O.II, dated 29th September 1934, in which he has already explained that the pay of Rs.500-50-850 should not be reduced even if Municipal audit is transferred to another agency. The Government of India may be asked to

reconsider their orders and accept the recommendation already made by the Resident as regards pay as the duties of the Treasury and Income-tax Officer and Financial Adviser to the Resident are in themselves sufficiently heavy to justify the existing rate of pay.

I have the honour to be,

Sir,

Your most obedient servant,

(Sd) S. Kuppuswamy

OFFICER IN CHARGE,
RESIDENT'S TREASURY,
BANGALORE.

SAB.

True Copy

S.K.
28.11.35

/15

D.O.No. F.116-36
R.O. II.

Issued
13.1.36

Bangalore,
13th January 1936.

My dear Rao Sahib,

Encl. & N.1

Will you please refer to your letter No. Rt.1/Gl. 453, dated the 28th November 1935 and demi-official letter of the same date, on the subject of the allocation of the Municipal audit fee under revised Supplementary Rule 10.

& S.N.1.

I am desired to say that the Resident has considered the whole case very carefully and that while he fully sympathises with you and is convinced that in equity you had a good claim to receive at least some proportion of the Municipal audit fee, he regrets that he can not see his way to approach the Government of India again on the subject, even in connection with the revision of the Supplementary Rules. The Government of India have resisted so strongly all the endeavours made in the past to have the decision re-considered that the Resident is

unable

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unable to raise the question with them again, even demi-officially.

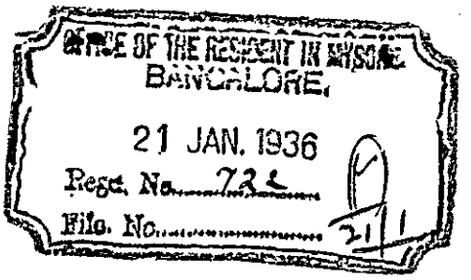
Yours sincerely,

Mc Towe
13/1

Rao Sahib S. Kuppuswami Naidu, B.A.,
Officer in charge of the Hon'ble
the Resident's Treasury,
Bangalore.

BJ

C. N. 3



17

From

M.R.Ry.
Rao Sahib S. Kuppuswami Naidu Garu, B.A.,

Treasury and Income-tax Officer and
Financial Adviser, Mysore Residency,

To

The Secretary to the Hon'ble the Resident in Mysore,

B a n g a l o r e.

Bangalore, the 20th January 1936.

Sir,

I have the honour to submit herewith an appeal to the Government of India regarding the Municipal audit fee and request that it may kindly be forwarded with the Hon'ble the Resident's recommendation.

I have the honour to be,
Sir,
Your most obedient servant,

Skuppuswamy

Treasury & Income-tax Officer
and
Financial Adviser, Mysore Residency

(Original to be sent to Govt of India
(Kept at bottom of file)

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From

Rao Sahib S. Kuppuswami Naidu, B.A.,

Treasury and Income-tax Officer and
Financial Adviser, Mysore Residency,

To

The Secretary to the Government of India,

Foreign and Political Department, New Delhi,

Through

The Hon'ble the Resident in Mysore, Bangalore.

Bangalore, the 20th January 1936.

Sir,

I beg most respectfully to invite a reference to the revised supplementary rule 9 under which a Government servant may undertake work for an Indian State or a private or public body or a private person and accept a fee therefor with the sanction of the competent authority if it can be undertaken without detriment to his official duties or responsibilities, and to the revised supplementary rule 10 under which the officer who undertakes such work must be allowed to retain two-thirds of the fee and can under the special orders of the Governor General in Council retain even the entire fee. I have been auditing the accounts of the Municipal Commission, Civil and Military Station, Bangalore, for which the Municipalit pays annually a fee of Rs.2,400/- which under the orders of the Government of India is credited in full to the revenues of the Mysore Assigned Tract. I submit that under the new supplementary rule 10, I should ordinarily be entitled to receive at least two-thirds of the fee, and in view of Foreign and Political Department Memorandum No.D.2981/E-35, dated the 18th September 1935

1935, in which the Government of India contemplate the payment of the entire fee to a Government servant by making exceptions to the general rule in cases where Government have some interest in the work concerned being performed by a Government Officer, it would appear that there should be no objection to allow me to retain even the entire fee. I pray therefore that the Government of India may be pleased to issue revised orders under the new supplementary rule 10 permitting me to retain the fee paid by the Municipal Commission for my audit of their accounts.

× S.N.+ C.P.47 (B) F 744-34

2. In their × letter No.F.37(2)-E/34, dated the 23rd November 1934 to the Hon'ble the Resident, the Government of India stated that ".....when the post of Treasury and Income-tax Officer and Financial Adviser, Mysore Residency, was created, the officer appointed to it was granted a special rate of pay of Rs.500-50-850, which was to be personal to him, in view of the fact that he had to do the audit of the accounts of the Municipal Commission, Bangalore in addition to his other duties."

The existing orders, under which I am not permitted to retain the fee or any part of it, are based on this assumption that my pay was specially fixed in order to make an allowance for carrying out Municipal audit. I therefore beg leave to explain the genesis of the scale of pay proposed by Sir Richard Burke and sanctioned by the Government of India.

3. On the eve of the abolition of the Pay and Accounts Office, Bangalore, the Government of India sent the following orders to the Resident:

".....it

S.N.1 (K) F.631-31.

"..... it will be necessary for the Hon'ble the Resident in Mysore to take over and arrange for the administration of the Bangalore Treasury as before. It is requested that steps may kindly be taken accordingly". (Government of India Memorandum No.D.2525-A-31, dated the 11th September 1931).

× S.N.5 (K) F.631.31

With his letter No.78.T/631-1931, dated the 9th October 1931, Sir Richard Burke sent his proposals and in the following portions of that letter discussed the question of the status of the officer to be appointed and of the scale of pay to be given to him.

"Para 2..... If the services of a Deputy Collector are obtained from Madras as before for appointment as Officer in charge of the Hon'ble the Resident's Treasury, he will have to be entrusted with the Income-tax work in addition to Treasury work.....

"Para 3. I consider that a better arrangement would be to create a permanent post on 500-50-850 (the pay of a senior Deputy Collector) and obtain the services of an Assistant Accounts Officer from the Goverment of India, Finance Department, for appointment as Officer in charge of the Hon'ble the Resident's Treasury, Income-tax Officer, Civil and Military Station, Bangalore, and Financial Adviser to the Hon'ble the Resident. In addition to the above he will be appointed as Auditor of the Municipal Commission, Civil and Military Station, Bangalore, under Section 175(o) of the Bangalore Municipal Law.

"Para 5. In any case, a Deputy Collector will have to work as Treasury Officer. His pay would be actually a little better than that now paid to the Pay and Accounts Officer - (300-40-500-50-850 against 500-35-850), and to have an officer of the Audit Department who can work both as Treasury Officer and Financial Assistant would be in practice an economy."

It will be seen that the Resident considered two

alternatives,

alternatives, viz., to have a Deputy Collector of the Madras cadre (as before October 1924 when the Pay and Accounts Office came into existance in Bangalore) or to get an officer of the status of an Assistant Accounts Officer. He discussed both the pay that would have to be given to them and the duties that they would be able to perform. As regards pay, he pointed out that the pay of a Deputy Collector would be actually a little better than that (500-35-850) paid to the Pay and Accounts Officer and as regards duties, that the Deputy Collector even if he carried out the Treasury and Income-tax work, would be of no use as Financial Adviser. In his view it was necessary to have a Financial Adviser attached to the Administration (vide paragraph 4 of his letter of the 9th October 1931). He decided to ask for an Assistant Accounts Officer as he would be able to act as Financial Adviser to the Administration as well as carry out the duties of Treasury and Income-tax Officer like a Deputy Collector on the rate of pay of a senior Deputy Collector (500-50-850). It will be clear from the above that the proposed pay of Rs.500-50-850 was suggested entirely with reference to the pay of a senior Deputy Collector and to the pay of an Assistant Accounts Officer.

× S.N.5 (K) F.631-31

4. This will be clearer still from the further correspondence between the Resident and the Government of India on the question of the scale of pay for the new combined post of Treasury Officer, Income-tax Officer, and Financial Adviser. In Foreign and Political Department memorandum No.F.71(43)-E/31 dated the 16th February 1932, the Government of India said that the scale of pay sanctioned in November 1931 was pitched too high and made several alternative proposals for filling up the new post with officers drawing lower rates of pay and asked the Resident to re-examine the case. Sir Richard Burke did so and submitted his letter to the Government of India

S.N.45 631-31 (K)

No.

(22

No.130-T-631-1251 dated the 8th March 1932. I beg to invite special attention to this letter which really formed the basis of the final sanction accorded by the Government of India to the scale of pay of Rs.500-50-850.

It will be seen from that letter that he justified the rate of pay proposed solely with reference to Income-tax and Treasury work and the rates of pay paid formerly for officers in charge of such work, and the need for financial advice. There is absolutely nothing said therein about the scale of pay being fixed with reference to Municipal audit. Indeed, if Sir Richard Burke had that in his mind, it is inconceivable that when ~~xx~~ asked to justify the scale of pay proposed by him he would not have pointed out that a good fraction of the pay would be recovered in the shape of the Municipal audit fee which was to be credited to Government. I respectfully submit that it seems also fair to assume that it did not occur even to the Government of India, at the time the scale of pay was discussed, to couple it with the credit to Government of the Municipal audit fee.

5. It was at a later stage that the disposal of the Municipal audit fee assumed importance. In June 1932 I represented to the Resident that the regular official duties of the combined job were so heavy that it would be nothing but fair to let me retain the fee for Municipal audit. The Resident considered that my request was reasonable and proposed to let me have the audit fee and reported his intention to do so to the Government of India in his letter No. 4678-630/1931, dated the 14th July 1932. In passing orders on this report, the Government of India, for the first time, said that the credit of the Municipal audit fee was one of the conditions 'implicit' in the sanction to the scale of pay of Rs.500-50-850.

P.W.2 (A)
F.424-32

D.W.17 (A)
F 424-32

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I may respectfully venture to submit that it should be clear from what has been stated in paragraphs 3 & 4 above, that this was not the case.

It is true that the Resident had originally proposed to credit the Municipal audit fee to the Mysore Assigned Tract revenues. But I submit that that by itself does not justify the inference that the pay was proposed at a special rate to allow for Municipal audit. The post proposed to be created (and eventually sanctioned) was that of Treasury Officer, Income-tax Officer, and Financial Adviser. Municipal audit came as an incidental and not as a necessary consideration. It was mainly in the interests of the Municipal Commission that a local auditor as against an absentee auditor like the Accountant General, Madras, was considered more satisfactory. Again, it has to be noted that the Resident did not ask the Government of India to appoint the holder of the newly created post as ex-officio Municipal Auditor. He reserved the power of appointment of the auditor to himself. He said in paragraph 3 of this letter:

× S.N.5 (K)
F.531-31

> "In addition to the above, he will be appointed as Auditor of the Municipal Commission under Section 175(c) of the Bangalore Municipal Law"

He proposed, evidently under the old Supplementary Rule 13, to credit the fee to Government, and under the same Supplementary Rule, proposed, later, to allow me to retain the fee.

I submit that it is fairly obvious that the Resident mentioned the need for a local Municipal Auditor as an additional argument for appointing an Assistant Accounts Officer rather than a Deputy Collector.

6. Finally, looking into the correspondence as a whole,

I

Orig. on page 7 allowed (T)

I venture to submit that there can be no doubt that the scale of pay was fixed not in view of the fact that Municipal audit had to be done in addition to other duties, but entirely with reference to the pay of a Deputy Collector, whom, in any case, the Resident would have had to recruit for the duties of the Treasury and Income-tax work and to the fact that an Assistant Accounts Officer, whose pay was nearly the same as that of a Deputy Collector, could act as Financial Adviser in addition.

I therefore request that the Government of India may be pleased to reconsider their orders as regards the retention by me of the fee paid by the Municipal Commission for the audit of their accounts, and allow me the benefit of the new Supplementary Rule 10.

I beg to remain,

Sir,

Your most obedient servant,

(Sd) Sivaswamy

S N 4

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Issued. ABB 25/2/36.

No.F.116-36/R.O.II

From

The Hon'ble Mr. L.G.L. Evans, C.I.E., I.C.S.,
RESIDENT IN MYSORE.

To

The Political Secretary to the Government of India,
Foreign and Political Department.

(Camp) Mercara, 25th February 1936.

Audit fee recovered from the Municipal Commission, Civil and Military Station, Bangalore.

Sir,

I have the honour to refer to the correspondence ending with memorandum No.F.37(2)-E/34, dated the 23rd November 1934, from the Government of India in the Foreign and Political Department, and to forward for their consideration a petition dated the 20th January 1936 from Rao Sahib S. Kuppuswami Naidu, Treasury and Income-tax Officer, Civil and Military Station, Bangalore, requesting that in regard to the Municipal audit fee of Rs.2,400/- per annum he may be allowed the benefit of the new Supplementary Rule 10.

× SN. 4 / C p. 17 / F. 944-34 (R)

2. In Sir Charles Watson's Memorandum No.F.71(43)-E.31, dated the 29th December 1932, it was ordered that the duties of Municipal audit form part of the functions of the Treasury Officer and Financial Adviser and that the audit fee recovered from the Municipal Commission should be credited to the Assigned Tract revenues. The Collector of the Civil and Military Station has

4 SN. 17 / F. 424-32 (A)

always

always pressed for re-consideration of this decision; and I find myself in agreement with him that there are grounds for doing so. Apart from Municipal audit, the official duties of the post are those of Income-tax and Treasury Officer and Financial Adviser to the Resident. Income-tax collection in Bangalore in itself provides sufficient work for a full-time Income-tax Officer; and with the other duties in addition there is a full day's work for a highly qualified man, without taking into consideration the additional responsibility of the Municipal audit. The personality and experience of the present incumbent (Rao Sahib Kuppuswamy Naidu) enable him to cope with the work; but in the event of his retirement it is doubtful whether it would be possible to continue to combine the various duties in one post. In present conditions the work of Municipal audit has to be undertaken almost entirely outside of regular office hours; and I feel that in equity Rao Sahib Kuppuswamy Naidu has a good claim to be allowed to retain at least some proportion of the audit fee without any reduction of his pay. If an outside auditor (e.g. the Accountant General or Examiner of Local Funds, Madras) were appointed, there would now under the revised rules be no question of his being allowed to retain at least two-thirds of the fee. The appointment of a local auditor is an advantage to Government; and this makes the case for his retention of the fee all the stronger.

I am aware that no new arguments have been advanced. Rao Sahib Kuppuswamy Naidu having, however, made a fresh appeal, which I see no reason to withhold, I have thought it

it proper to forward it, with my own views in the matter as set forth above.

I have the honour to be,

Sir,

Your most obedient servant,

O/c

24/2

RESIDENT.

24/2/36.

DIVISION V -- Honoraria.

(Rules made by the Governor General in Council under Fundamental Rule 47).

General rule.

S.R.9. Subject to the conditions prescribed in rules 10 to 16, a competent authority may sanction the grant of an honorarium from general revenues to a Government servant under its administrative control or the acceptance by such a Government servant of an honorarium or a fee from a source other than general revenues. No Government servant may accept an honorarium or fee without such sanction.

Amount.

S.R.10. The amount of an honorarium or fee must be fixed with due regard to the value of the service in return for which it is given.

Conditions of sanction.

S.R.11. When the service rendered falls within the scope of the ordinary duties of the Government servant performing it, the test of exceptional merit prescribed in fundamental rule 46 must be very strictly applied.

S.R.12. Sanction must not be given to the acceptance of an honorarium or fee from a source other than general revenues unless the work for which it is offered has been undertaken with the knowledge and sanction of a competent authority, who must certify that its performance will involve no detriment to the official duties of the Government servant performing it.

S.R.13. When an honorarium or fee is paid from a source other than general revenues for work done by a Government servant during time which would otherwise be spent in the performance of official duties, the honorarium or fee must be credited to general revenues; provided that a competent authority may, for special reasons which should be recorded, direct that the whole or any part of it may be paid to the Government servant.

Limits of sanction in case of tuition fees.

S.R. 14. When a Government servant of an educational service

service is permitted to receive fees for private tuition, the financial limits of the powers of sanction accorded to a competent authority shall be considered to apply to the total amount of fees to be accepted by such Government servant during any particular scholastic term or vacation.

Action as arbitrator.

S.R.15. No Government servant may act as an arbitrator in any case which is likely to come before him in any shape by virtue of any judicial or executive post which he may be holding.

Expert evidence.

S.R.16. A Government servant called upon by a court of law to act as a commission to give evidence on technical matters may comply with the request, provided that the case is not of such a nature as will be likely to come before him in the course of his official duties, and may accept such fees as are fixed by the court